

In the High Court of Fiji

At Suva

Civil Jurisdiction

Civil Action No. HBC 139 of 2022

Rameez Zavir Khan

Plaintiff

v

Golf Fiji

Defendant

Counsel: Mr Shelvin Singh with Ms S. Saumaki for the
plaintiff

Ms L. Prasad for the defendant

Date of hearing: 18th May,2022

Date of Ruling: 30th June,2022

Ruling

1. The plaintiff a member of the Fiji Golf Club in his inter-partes summons filed on 22nd April,2022, seeks that :

- i. *The Defendant be restrained from continuing the suspension/ban .. restraining him from playing all levels of golf for twelve months from 01 January 2022 pending the hearing and determination of the Plaintiff's substantive matter challenging that decision.*
- ii. *Further or alternatively, the decision of the Defendant emailed to the Plaintiff on 30 December 2021 in which it decided to ban the Plaintiff from playing all levels of golf for twelve months from 01 January 2022 be stayed pending the hearing and determination of the Plaintiff's substantive matter challenging that decision.*

2. The plaintiff, in his supporting affidavit states that on 2 November,2020, he was disqualified from the Golf Tournament, Digicel 2020 Fiji Open 50th Anniversary Golf Championship,(Tournament) as a player made a complaint of cheating against him. On 31 December,2020, Mr. V. Lakhan the President of the defendant advised him that on his investigations, he found a case to answer and an Ad Hoc Committee,(AHC) would hear his case.
3. He attended a preliminary meeting of the AHC on 15th February,2021. Mr Lakhan and three others were present. Subsequently, a phone recording of another player at the Tournament was emailed to him. His lawyer's inquiries on the manner the inquiry would be conducted before the AHC were unanswered and instead, he was told to attend a meeting on a date that was not suitable to his lawyer. The meeting was re- fixed for 16 March, 2021.
4. On 30 December, 2021, he was advised that the Executive Committee,(Ex Co) met twice and upheld his disqualification and decided that he be banned from playing all levels of golf for twelve months from 1st January, 2022. He had no notice that the Ex Co had discussed his case twice in his absence. The normal practice is to suspend players for 6 months, but he was given an added 6 months, as he questioned the legality of the process, which he states is a blatant disregard of his rights.
5. The complaint was investigated in a biased manner. Mr Lakhan heard only persons who complained against him and not neutral persons. In December, 2020, he found that he had a case to answer. In February, 2021, he "*sorted of acted as the prosecutor*" at the initial meeting of the AHC. On 30 December, 2021, he was on the Ex Co which made the decision to ban him and uphold his suspension.
6. Mr Lakhan, in his affidavit in reply states that the initial complaint of cheating was verbal and followed by a written complaint. He asked Mr A. Chand, a member of the Tournament Committee on the Ex Co to investigate the complaint. Mr Chand advised that the complaint had been corroborated and played the voice recording of a player who had played on the final day. Mr Chand and he agreed to disqualify the plaintiff.

7. Mr Lakhan states that he carried out an independent investigation initially to find out if there was any truth in the allegations. No member of the Ex Co was involved. He did not pass judgment nor suggest a penalty. Once he found that there was a case to answer, the matter was referred to the AHC. The plaintiff had no objections to any of the panel members of the AHC. He refutes that he acted as Prosecutor.
8. The plaintiff failed to appear before the AHC on 16 March, 2021. He was given an opportunity to appear before an independent committee, as he requested. The Committee was headed by Mr Feizal Haniff, a lawyer. The AHC could not continue if the plaintiff did not recognize it and refused to appear before it. The AHC declined to hear the case in absentia and referred the matter to the defendant. It then became a matter for the Ex Co .The defendant has a policy of zero tolerance against breach of golf rules, which is six months suspension. An additional six months was added to the sentence, as the plaintiff questioned the authority of the defendant to act in accordance with its Constitution, which was a threat to the organization.

The determination

9. The plaintiff contends that he was banned from playing golf for twelve months by a disciplinary process, which was unlawful, harsh, unconscionable and in breach of all principles of natural justice. The ban is affecting him mentally, physically and emotionally. He states that he has lost face due to the suspension.
10. He complains that the Charge and disclosures were not provided to him. The plaintiff states that at the preliminary meeting of the AHC on 15th February,2021, 3 copies of the Charges and disclosures were made available, but were not given to him. The voice recording of a player was emailed to him on 15th February,2021.
11. Mr Lakhan states that he served the plaintiff with the Charge and disclosures at the preliminary meeting.

12. The plaintiff, in his supporting affidavit states that Mr Feizal Haniff, a member of the AHC informed him that he could raise his concern regarding the voice recording at the meeting. I note that Mr Haniff, in his emails of 12th and 16th February,2021, said that he could raise any issues and concerns he has as well as make submissions at the forum.
13. In my view, the plaintiff could have raised his issues with respect to the documents not provided, the alleged bias, the material to be used and the manner the AHC was to conduct the inquiry at the meeting.
14. The plaintiff was given an opportunity to present his case. I note that he had no objections to the AHC hearing the matter, as provided in his reply. He was given legal representation and granted an adjournment of the meeting scheduled for 12 March,2021, as his lawyer was not free. But he failed to attend the subsequent meeting on 16th March,2021.
15. In the circumstances, it was not unreasonable for the Ex Co to proceed with the matter.
16. In my view, there is no serious issue that needs to be tried. This not an appropriate case for the exercise of my discretion.
17. I decline to grant interim relief.
18. In view of my conclusion, I do not find it necessary to deal with the contentions raised by Ms Prasad, counsel for the defendant that the plaintiff has not sought a permanent injunction, the relief sought will grant the permanent relief claimed and he has delayed in bringing this summons.

19. *Orders*

- a. The defendant's claim for interim relief is declined.
- b. The plaintiff shall pay the defendant costs summarily assessed in a sum of \$1500.00 within 15 days of this Ruling.



A.L.B. Brito-Mutunayagam

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JUDGE
30th June , 2022